



FISCAL MEMORANDUM

HB 353 – SB 670

April 10, 2013

SUMMARY OF ORIGINAL BILL: Decreases, from 0.15 percent to 0.08 percent, the breath or blood alcohol concentration (BAC) that is considered an enhanced offense for purposes of issuing a restricted driver license. Requires any person issued a restricted driver license resulting from a conviction of driving under the influence (DUI) or implied consent to use an ignition interlock device (IID). Authorizes a trial judge to order the issuance of a restricted license to any such person. Deletes the requirement that a trial judge wait until the expiration of the revocation period prior to granting the issuance of a restricted license. Requires the IID be capable of taking a photo, identifying the person providing the sample. Deletes the limitation requirements of a restricted license if an IID is installed. Sets an effective date of July 1, 2013.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue –

Exceeds \$412,200/FY13-14/General Fund

Exceeds \$549,600/FY14-15 and Subsequent Years/General Fund

Decrease State Revenue –

\$7,200/FY14-15/Interlock Assistance Fund

\$1,300/FY14-15/THA

\$600/FY14-15/Office of Criminal Justice

\$300/FY14-15/ADAT Fund

\$300/FY14-15/Department of Safety

\$14,300/FY15-16 and Subsequent Years/Interlock Assistance Fund

\$2,600/FY15-16 and Subsequent Years/THA

\$1,200/FY15-16 and Subsequent Years/Office of Criminal Justice

\$600/FY15-16 and Subsequent Years/ADAT Fund

\$600/FY15-16 and Subsequent Years/Department of Safety

Increase State Expenditures –

\$622,700/FY13-14/General Fund

\$407,300/FY14-15 and Subsequent Years/General Fund

\$131,400/FY13-14/Interlock Assistance Fund

\$175,300/FY14-15 and Subsequent Years/Interlock Assistance Fund

Increase Local Revenue – \$65,700/FY13-14

Decrease Local Revenue – \$194,200/FY14-15

\$475,900/FY15-16 and Subsequent Years

Decrease Local Expenditures – \$670,800/FY14-15

\$1,341,600/FY15-16 and Subsequent Years

SUMMARY OF AMENDMENTS (006314, 006631): Amendment 006314 deletes the original bill. Amends Public Acts of 2013. Decreases, from 0.15 percent to 0.08 percent, the breath or blood alcohol concentration (BAC) that is considered an enhanced offense for purposes of issuing a restricted driver license. Requires any person issued a restricted driver license as a result of such enhancement to operate a motor vehicle equipped with an ignition interlock device (IID). Authorizes a trial judge to order the issuance of a restricted license to any person convicted of DUI. Deletes the requirement that a trial judge wait until the expiration of the revocation period prior to granting the issuance of a restricted license, provided such person operates a motor vehicle equipped with an IID. Requires the IID be capable of taking a photo, identifying the person providing the sample. Requires the Treasurer to determine the solvency of the Interlock Assistance Fund, and authorizes the Treasurer to declare a surplus, if there is a balance in excess of the amount necessary to maintain the solvency of the fund. Authorizes a person convicted of an offense prior to July 1, 2013, to petition the court to apply the law that is in effect at the time the petition is filed. Requires a person who obtains a restricted license as a result of an implied consent violation to operate a motor vehicle equipped with an IID. Effective upon becoming law, requires a person convicted of DUI who applies for a restricted license to operate a motor vehicle equipped with an IID to pay a program development fee of \$8.00. Terminates such fee on June 30, 2014. Sets an effective date of July 1, 2013. Amendment 006631 adds language to the bill as amended requiring all documents, records, information, and monitoring data to remain confidential and not available for public inspection.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue –

\$5,100/FY12-13/General Fund

Exceeds \$629,600/FY13-14/General Fund

Exceeds \$549,600/FY14-15 and Subsequent Years/General Fund

Decrease State Revenue –

\$7,200/FY14-15/Interlock Assistance Fund

\$1,300/FY14-15/THA

\$600/FY14-15/Office of Criminal Justice

\$300/FY14-15/ADAT Fund

\$300/FY14-15/Department of Safety

\$14,300/FY15-16 and Subsequent Years/Interlock Assistance Fund

\$2,600/FY15-16 and Subsequent Years/THA

\$1,200/FY15-16 and Subsequent Years/Office of Criminal Justice

\$600/FY15-16 and Subsequent Years/ADAT Fund

\$600/FY15-16 and Subsequent Years/Department of Safety

Increase State Expenditures –

\$622,700/FY13-14/General Fund

\$407,300/FY14-15 and Subsequent Years/General Fund

\$175,300/FY13-14 and Subsequent Years/Interlock Assistance Fund

Increase Local Revenue – \$65,700/FY13-14

Decrease Local Revenue – \$194,200/FY14-15

\$475,900/FY15-16 and Subsequent Years

Decrease Local Expenditures – \$670,800/FY14-15

\$1,341,600/FY15-16 and Subsequent Years

Assumptions for the bill as amended:

- As written, the bill as amended amends an unknown chapter of the Public Acts of 2013 which has not yet become law. Determining the precise changes this bill will make to current DUI law is not possible in the current form of this bill as amended. The precise fiscal impact depends on the exact language in code and the amendatory language in this bill as amended.
- According to the Department of Safety (DOS), there are approximately 5,000 restricted driver licenses issued to DUI and implied consent offenders each year.
- According to DOS, extending eligibility for a restricted license to all offenders could result in up to 10,000 additional restricted licenses being issued.
- In FY10-11 there were 14,278 first-time DUI convictions posted to drivers' history. There were 2,244 implied consent violations. There were 2,572 second-time offenders, and 5,665 DUI convictions for subsequent and other DUI related offenses.
- First-time offenders and implied consent offenders are eligible for a restricted license under current law if they have not been convicted of certain traffic offenses in the past ten years. Persons convicted of a second offense are currently required to serve a one year revocation period prior to eligibility for a restricted license. Persons convicted of third and fourth offenses are subject to six to ten year revocations and are not eligible for a restricted license.
- The section requiring an \$8.00 program development fee is effective upon becoming law. In December 2012, there were 3,825 drivers with an interlock restriction.
- Assuming this bill as amended becomes law on May 1, 2013, approximately 16.67% of these restricted driver license applicants with an interlock restriction in FY12-13 will be charged the \$8.00 fee.
- An increase in state revenue of \$5,101 in FY12-13 to the General Fund (3,825 applicants x 16.67% x \$8.00).
- A total of at least 10,000 (5,000 current + at least 5,000 additional) restricted driver licenses with interlock restrictions annually.
- An increase in state revenue to the General Fund exceeding \$80,000 in FY13-14 from the \$8.00 program development fee (\$8.00 x 10,000).
- Based on the information provided by DOS and current DUI and restricted license statistics, the increase in restricted license applications is expected to exceed 5,000 annually.
- The effective date of July 1, 2013, and the authorization to petition the court for previous violations to be eligible for a restricted license in lieu of a suspension will result in a full first year impact of at least 5,000 additional restricted licenses.
- An application fee of \$67.
- An increase in recurring state revenue to the General Fund exceeding \$335,000 (5,000 x \$67).
- In January 2010, there were 2,743 drivers with an interlock restriction.
- Public Chapter 921 of 2010, requiring interlock restrictions for enhanced DUI offenders, became effective on January 1, 2011.
- In December 2012, there were 3,825 drivers with an interlock restriction, an increase of 1,082 (3,825 - 2,743) interlock restrictions compared to January 2010.
- Based on information provided by the Department of Treasury, in FY11-12, there were 12 indigent offenders that utilized funding from the Interlock Assistance Fund for installation fees.

- Approximately 1,000 offenders eligible for funds from the Interlock Assistance Fund if deemed indigent.
- Approximately 1.2 percent of currently eligible offenders (12/1,000) will be deemed indigent and install an IID utilizing funding from the Interlock Assistance Fund.
- This number is expected to be higher among all DUI offenders. At least 1.5 percent is expected to be the minimum percentage of additional offenders who will qualify for funding from the Interlock Assistance Fund.
- Under current law, a person requesting a restricted license whose DUI was not enhanced shall pay all costs associated with the IID regardless of whether the person is indigent. This bill as written will not change that requirement; however, the enhancement criteria will change from a BAC of 0.15 to 0.08. Therefore all DUI offenders will be considered enhanced.
- Pursuant to Tenn. Code Ann. § 55-10-421(b), any portion of the costs of an IID the person is unable to pay shall come from the Interlock Assistance Fund.
- A total of at least 10,000 (5,000 current + at least 5,000 additional) DUI and implied consent offenders will be required to install and maintain an IID.
- A minimum of an additional 138 $[(10,000 \times 1.5\%) - 12 \text{ current}]$ offenders will utilize funding from the Interlock Assistance Fund.
- Pursuant to Tenn. Code Ann. § 55-10-423, the maximum cost of installing and maintaining an IID for 12 months as required by current law is \$1,270.
- A recurring increase in state expenditures exceeding \$175,260 $(\$1,270 \times 138)$ from the Interlock Assistance Fund.
- DOS will require one sergeant position to manage the Ignition Interlock Device Program and two additional trooper positions to conduct inspections of all device installers. A recurring increase in state expenditures of \$229,116 $(\$113,884 \text{ salaries} + \$39,032 \text{ benefits} + \$76,200 \text{ operational/vehicle/training/equipment})$. One-time state expenditures of \$184,800 for vehicles and equipment.
- DOS will require one additional driver license examiner in each of the three grand divisions. A recurring increase in state expenditures of \$108,283 $(\$67,068 \text{ salaries} + \$28,159 \text{ benefits} + \$13,056 \text{ operational/uniforms/training})$. One-time state expenditures of \$16,200.
- DOS will require two additional safety examiners within the Financial Responsibility Division. A recurring increase in state expenditures of \$69,873 $(\$41,184 \text{ salaries} + \$18,189 \text{ benefits} + \$10,500 \text{ operational/training})$. One-time state expenditures of \$14,400.
- The total recurring increase in state expenditures from the General Fund for the new positions is estimated to be \$407,272 $(\$229,116 + \$108,283 + \$69,873)$.
- The total one-time increase in state expenditures from the General Fund for the new positions is estimated to be \$215,400 $(\$184,800 + \$16,200 + \$14,400)$.
- The total increase in state expenditures in FY13-14 will be \$622,672 $(\$407,272 + \$215,400)$.
- At least an additional 6,175 $(10,000 - 3,825)$ restricted license holders will be required to only operate a vehicle with an IID. Currently, 91.8 percent of those required to use an IID have one installed on their vehicle. At least an additional 5,669 $(6,175 \times 91.8\%)$ drivers will have an IID installed. At least 5,531 non-indigent offenders will have an IID installed.
- An average sales/rental charge to non-indigent offenders of \$1,150 annually. Total taxable sales from these devices will exceed \$6,360,650 $(5,531 \times \$1,150)$.

- Approximately 50 percent of these sales would have been spent on other sales taxable goods in the absence of this bill.
- Additional taxable sales exceeding \$3,180,325 ($\$6,360,650 \times 50\%$).
- A recurring increase in state sales tax revenue exceeding \$222,623 ($\$3,180,325 \times 7.0\%$ state sales tax).
- A recurring increase in local sales tax revenue exceeding \$79,508 ($\$3,180,325 \times 2.5\%$ average local option sales tax).
- Pursuant to Tenn. Code Ann. § 67-6-103(a)(3)(A), local governments receive 4.603 percent of state sales tax revenue as state-shared sales tax revenue.
- Pursuant to Tenn. Code Ann. § 67-6-103(q), no portion of revenue derived from the 0.5 percent sales tax rate increase, from 5.5 percent to 6.0 percent (effective April 1, 1992), or the 1.0 percent sales tax rate increase, from 6.0 percent to 7.0 percent (effective July 15, 2002), shall be distributed to local government.
- The effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617% [$(5.5\%/7.0\%) \times 4.603\%$].
- The recurring increase in local government revenue from the state-shared allocation is estimated to be \$8,052 ($\$3,180,325 \times 7.0\% \times 3.617\%$).
- The net recurring increase in state sales tax revenue allocated to the General Fund is estimated to be \$214,571 ($\$222,623 - \$8,052$).
- The net recurring increase in local sales tax revenue is estimated to be \$87,560 ($\$79,508 + \$8,052$) beginning in FY14-15.
- Based on research by the Center for Disease Control (CDC), recidivism rates for alcohol impaired drivers decrease by a median of 67 percent when an IID is installed.
- According to a 2009 TBI report, the recidivism rate among DUI offenders in Tennessee is approximately 20.7 percent.
- Of the additional 5,669 drivers with an IID installed, 1,173 would be expected to reoffend within five years in the absence of this bill. Based on the CDC study, it is reasonable that at least half of these offenders (587) will not be repeat offenders.
- An average decrease in the number of DUI arrests annually of 587. This decrease is expected to begin more than a year after implementation in FY14-15 in which the impact will be 50 percent of the first full-year impact.
- Of the 587 individuals who will not reoffend due to the installation of an IID as a result of this bill, all are assumed to be second offenses with an average fine of \$1,200 under current law.
- A collection rate of 80 percent for DUI offenses.
- A recurring decrease in local revenue of \$563,520 ($587 \text{ offenders} \times \$1,200 \times 80\%$) beginning in FY15-16. A decrease in local revenue of \$281,760 ($\$563,520 \times 50\%$) in FY14-15.
- A minimum jail time of 45 days for second-time offenders. A statewide county cost for incarceration of \$50.79.
- A recurring decrease in local expenditures of \$1,341,618 ($\$50.79 \times 45 \text{ days} \times 587 \text{ offenders}$) beginning in FY15-16. A decrease in local expenditures of \$670,809 in FY14-15.
- Fine revenue from the \$40 Interlock Assistance Fee is distributed as follows: \$30.50 to the Interlock Assistance Fund, \$4.50 to the Tennessee Hospital Association (THA), \$2.50 to the Department of Finance and Administration's Office of Criminal Justice

programs, \$1.25 to the Alcohol and Drug Addiction Treatment Fund (ADAT Fund), \$1.25 to DOS.

- A recurring decrease in state revenue beginning in FY15-16 of \$14,323 to the Interlock Assistance Fund (587 offenders x \$30.50 x 80%), \$2,642 to the THA (587 offenders x \$4.50 x 80%), \$1,174 to the Office of Criminal Justice (587 offenders x \$2.50 x 80%), \$587 to the ADAT Fund (587 offenders x \$1.25 x 80%), and \$587 to DOS (587 offenders x \$1.25 x 80%).
- The decrease in state revenue in FY14-15 will be 50 percent of the estimated recurring impact for FY15-16, which is \$7,161 to the Interlock Assistance Fund, \$1,321 to the THA, \$587 to the Office of Criminal Justice, \$294 to the ADAT Fund, and \$294 to DOS.
- The total increase in state revenue to the General Fund in FY13-14 will exceed \$629,571 (\$214,571 + \$335,000 + \$80,000).
- The total increase in recurring state revenue to the General Fund beginning in FY14-15 will exceed \$549,571 (\$214,571 + \$335,000).
- An increase in local government revenue of \$65,670 in FY13-14.
- The total net decrease to local revenue will be \$194,200 (\$281,760 - \$87,560) in FY14-15.
- The total net decrease to local revenue will be \$475,850 (\$563,520 - \$87,670) in FY15-16 and subsequent years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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